

June 23, 2020

Memorandum #2020-74

TO: HRPDC Coastal Resilience Subcommittee

BY: Robert A. Crum, Jr., Executive Director

RE: Subcommittee Meeting – June 29, 2020

Attached is the agenda for the HRPDC Coastal Resilience Subcommittee meeting scheduled for **Monday, June 29, 2020 at 12:30 PM.**

Pursuant to Governor Northam's Executive Order 53 issued on March 23, 2020 and Executive Order 61 issued on May 8, 2020, the Coastal Resilience Subcommittee meeting will be held electronically via Webex.

Members of the public are invited to address the Coastal Resilience Subcommittee. Due to the COVID-19 crisis, interested persons may submit comments to the Coastal Resilience Subcommittee in advance of the meeting by email to kmiller@hrpdcva.gov or phone (757) 366-4370. Each comment is limited to three minutes. All comments received by noon on June 26, 2020 will be provided to the Coastal Resilience Subcommittee Members and included in the official record.

Members of the public may listen to the Coastal Resilience Subcommittee meeting via telephone using toll-free Dial-In 1-855-797-1799.

BC/cm

Attachment

HRPDC Coastal Resilience Subcommittee:

Andria McClellan, Norfolk
Kelly Convirs-Fowler, Virginia House of Delegates
Barbara Henley, Virginia Beach
David Jenkins, Newport News
McKinley Price, Newport News
John Rowe, Portsmouth
Donnie Tuck, Hampton
Ella Ward, Chesapeake

Copy:

Keith Cannady, HRPDC
Whitney Katchmark, HRPDC
Ben McFarlane, HRPDC
Ashley Gordon, HRPDC

**Hampton Roads
Planning District Commission**

**Coastal Resilience Subcommittee
Meeting Agenda**

**Monday, June 29, 2020
12:30 p.m.**

Due to the COVID-19 crisis and pursuant to Governor Northam's Executive Order 53 issued on March 23, 2020 and Executive Order 61 issued on May 8, 2020, the Coastal Resilience Subcommittee meeting will be held electronically via Webex.

I. Call to Order

II. Introductions

III. Public Comment

Members of the public are invited to address the Coastal Resilience Subcommittee. Due to the COVID-19 crisis, interested persons may submit comments to the Coastal Resilience Subcommittee in advance of the meeting by email to kmiller@hrpdcva.gov or phone (757) 366-4370. Each comment is limited to three minutes. All comments received by noon on June 26, 2020 will be provided to the Coastal Resilience Subcommittee Members and included in the official record.

IV. Commercial Property Assessed Clean Energy (C-PACE)

C-PACE is an innovative clean energy financing tool that provides 100 percent upfront capital to building owners who want to upgrade their buildings with energy-efficient and renewable systems. The Coastal Resilience Subcommittee will receive a series of presentations on efforts at the State and local levels to advance this program. The following individuals will brief the Subcommittee members:

- Delegate Nancy Guy
- Dan Farrell, Virginia Department of Mines, Minerals and Energy (DMME)
- Councilwoman Andria McClellan, City of Norfolk

As background information, a copy of HB 654 is provided for the Subcommittee member's review.

V. Schedule and Topics for Upcoming Subcommittee

VI. Other Items

VII. Adjournment

Staff will discuss a proposed upcoming meeting schedule for the Coastal Resilience Subcommittee and request input on potential agenda items.

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 15.2-958.3 of the Code of Virginia, relating to clean energy financing program.

[H 654]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-958.3 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-958.3. Financing clean energy, resiliency, and stormwater management programs.

A. Any locality may, by ordinance, authorize contracts to provide loans for the initial acquisition and installation of clean energy, resiliency, or stormwater management improvements with free and willing property owners of both existing properties and new construction. Such an ordinance shall include but not be limited to the following:

1. The kinds of renewable energy production and distribution facilities, energy usage efficiency improvements, resiliency improvements, water usage efficiency improvements, or stormwater management improvements for which loans may be offered. Resiliency improvements may include mitigation of flooding or the impacts of flooding or stormwater management improvements with a preference for natural or nature-based features and living shorelines as defined in § 28.2-104.1;

2. The proposed arrangement for such loan program, including (i) a statement concerning the source of funding that will be used to pay for work performed pursuant to the contracts; (ii) the interest rate and time period during which contracting property owners would repay the loan; and (iii) the method of apportioning all or any portion of the costs incidental to financing, administration, and collection of the arrangement among the consenting property owners and the locality;

3. (i) A minimum and maximum aggregate dollar amount that may be financed with respect to a property and (ii) if a locality or other public body is originating the loan, a maximum aggregate dollar amount that may be financed with respect to loans originated by the locality or other public body;

4. In the case of a loan program described in clause (ii) of subdivision 3, a method for setting requests from property owners for financing in priority order in the event that requests appear likely to exceed the authorization amount of the loan program. Priority shall be given to those requests from property owners who meet established income or assessed property value eligibility requirements;

5. Identification of a local official authorized to enter into contracts on behalf of the locality. A locality may contract with a third party for professional services to administer such loan program;

6. Identification of any fee that the locality intends to impose on the property owner requesting to participate in the loan program to offset the cost of administering the loan program. The fee may be assessed as (i) a program application fee paid by the property owner requesting to participate in the program, (ii) a component of the interest rate on the assessment in the written contract between the locality and the property owner, or (iii) a combination of clauses (i) and (ii); and

7. A draft contract specifying the terms and conditions proposed by the locality.

B. The locality may combine the loan payments required by the contracts with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which loan payments will be applied to the different charges. The locality may not combine its billings for loan payments required by a contract authorized pursuant to this section with billings of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.), unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

C. The locality shall offer private lending institutions the opportunity to participate in local loan programs established pursuant to this section.

D. In order to secure the loan authorized pursuant to this section, the locality shall be authorized to place a voluntary special assessment lien equal in value to the loan against any property where such clean energy systems, resiliency improvements, or stormwater management improvements are being installed. The locality may bundle or package said loans for transfer to private lenders in such a manner that would allow the voluntary special assessment liens to remain in full force to secure the loans.

E. A voluntary special assessment lien on real property other than a residential dwelling with fewer than five dwelling units or a condominium project as defined in § 55.1-2000:

1. Shall have the same priority status as a property tax lien against real property, except that such voluntary special assessment lien shall have priority over any previously recorded mortgage or deed of trust lien only if (i) a written subordination agreement, in a form and substance acceptable to each prior

57 lienholder in its sole and exclusive discretion, is executed by the holder of each mortgage or deed of
58 trust lien on the property and recorded with the special assessment lien in the land records where the
59 property is located, and (ii) evidence that the property owner is current on payments on loans secured by
60 a mortgage or deed of trust lien on the property and on property tax payments, that the property owner
61 is not insolvent or in bankruptcy proceedings, and that the title of the benefited property is not in
62 dispute is submitted to the locality prior to recording of the special assessment lien;

63 2. Shall run with the land, and that portion of the assessment under the assessment contract that has
64 not yet become due is not eliminated by foreclosure of a property tax lien;

65 3. May be enforceable by the local government in the same manner that a property tax lien against
66 real property may be enforced by the local government. A local government shall be entitled to recover
67 costs and expenses, including attorney fees, in a suit to collect a delinquent installment of an assessment
68 in the same manner as in a suit to collect a delinquent property tax; and

69 4. May incur interest and penalties for delinquent installments of the assessment in the same manner
70 as delinquent property taxes.

71 F. Prior to the enactment of an ordinance pursuant to this section, a public hearing shall be held at
72 which interested persons may object to or inquire about the proposed loan program or any of its
73 particulars. The public hearing shall be advertised once a week for two successive weeks in a newspaper
74 of general circulation in the locality.

75 *G. The Department of Mines, Minerals and Energy shall have the authority to serve as a statewide*
76 *sponsor for a clean energy financing program that meets the requirements of this section. The*
77 *Department of Mines, Minerals and Energy shall engage a private entity through a competitive selection*
78 *process to develop and administer the program.*